IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

CRL.A.No. 1676 of 2003()

CC.406/2000 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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APPELLANT: COMPLAINANT

P.K.RADHAKRISHNAN, KARIPPAYIL
HOUSE, O.K.MADHAVI AMMA ROAD,
KOCHI-18.

BY ADV. SRI.T.B.THANKAPPAN
SMT.K.DEEPA
SMT.ASMI.V.A.

RESPONDENTS: ACCUSED & STATE

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1. K.S.JOY, PROPRIETOR, ROYAL CHEF,
KALLUVEETTIL HOUSE, VITTAPPA PRABHU ROAD,
KOCHI-35.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1676 of 2003

Dated this the 12th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the counsel for the complainant was out of station on that particular posting date of the case.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 15.10.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl